

STATE OF DELAWARE
OFFICE OF
AUDITOR OF ACCOUNTS

CHARTER SCHOOL OF
WILMINGTON
CONTRACT

SPECIAL INVESTIGATION

FIELDWORK END DATE: FEBRUARY 25, 2009

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State of Delaware
Office of Auditor of Accounts
R. Thomas Wagner, Jr. – CFE, CGFM, CICA
At a Glance

Working Hard to Protect YOUR Tax Dollars

Why We Did This Review

The Office of Auditor of Accounts (AOA) received the following allegations regarding The Charter School of Wilmington (the School):

- The Board Chairman entered into a contract with a public relations firm three weeks prior to approval of the expenditure by the Board.
- The Board authorized \$10,000 in spending for the public relations firm to assist with upcoming charter legislation; however, the funds were not used for this purpose.

Background

The School is a charter school sponsored by the Red Clay Consolidated School District. The School was opened in 1996 as a college preparatory high school and has an educational focus on mathematics and sciences. The School was recently ranked by U.S. News America's Best High Schools 41st in the nation. The Board is comprised of six representatives from the School's initial corporate sponsors and one member each from the community, parents, and faculty.

For further information on this release, please contact:

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CHARTER SCHOOL OF WILMINGTON - CONTRACT

What We Found

- AOA determined the allegations were unsubstantiated.
- The public relations company provided the Board with a contract, signed by the company and dated May 22, 2008. According to the company and Board members, the actual contract was not signed until after Board approval was obtained at a Board meeting on June 12, 2008. The contract was made retroactive to May 22, 2008.
- The Board was aware that the contract with the PRguy was for both charter legislation and personnel issues. Although Board minutes only referred to charter legislation, Board members were aware of the intended use of the funds and voted to approve the contract in accordance with the understanding of the intended use.
- The School approved an increase in the contract amount; however, the amendment was not set forth in writing.
- The School does not have a purchasing policy that applies to Board members.

What We Recommend

The School should:

- Adhere to contract stipulations for all future contracts.
- Develop a Board purchasing policy and procedure.
- Ensure that contracts are signed and dated using the actual date of signature and that signatures not be applied until after Board approval (as applicable).

Please read the complete report for a full list of findings/recommendations and to review the School's response to our findings.

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AUDIT AUTHORITY

Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

ALLEGATION AND BACKGROUND

ALLEGATION

The Office of Auditor of Accounts (AOA) received the following allegations regarding The Charter School of Wilmington (the School):

- The Board Chairman entered into a contract with a public relations firm three weeks prior to approval of the expenditure by the Board.
- The Board authorized \$10,000 in spending for the public relations firm to assist with upcoming charter legislation; however, the funds were not used for this purpose.

BACKGROUND

The School is a charter school sponsored by the Red Clay Consolidated School District. The School was opened in 1996 as a college preparatory high school and has an educational focus on mathematics and sciences. The School was recently ranked by U.S. News America's Best High Schools 41st in the nation. The Board is comprised of six representatives from the School's initial corporate sponsors and one member each from the community, parents, and faculty.

OBJECTIVES, SCOPE, & METHODOLOGY

OBJECTIVES

The objectives of the investigation were:

1. To determine if the PRguy Incorporated (the PRguy) contract was approved by the School Board prior to the School Board Chairman signing the contract.
2. To determine if the paid services to the PRguy Incorporated were for authorized activities.

SCOPE

The scope of the investigation was a review of activity with the PRguy for the period of April 1, 2008 through December 31, 2008.

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

METHODOLOGY

Investigative techniques included:

- Interviews and inquiry.
- Inspection and confirmation of documentation.

CONCLUSIONS

ALLEGATION	RESULTS OF TESTING	CONCLUSION
The Board Chairman entered into a contract with a public relations firm three weeks prior to approval of the expenditure by the Board.	<p>AOA determined that several Board members as well as the School's legal counsel met with the PRguy on May 22, 2008 to discuss the purpose for entering into a contract. Based on interviews with participants of the meeting, it was clearly represented to the PRguy that in order for the School to enter into a contract with the PRguy, the Board would need to approve and until such approval, the PRguy would be providing services in "good faith". Also based on interviews with participants of the meeting, it was clear that the PRguy would be providing services related to legislative matters as well as issues surrounding the School's president.</p> <p>The PRguy provided the Board with a contract, signed by the PRguy and dated May 22, 2008. According to the PRguy and Board members, the actual contract was not signed until after Board approval was obtained at a Board meeting on June 12, 2008. The contract was made retroactive to May 22, 2008. Per interviews with Board members, they were aware at the June 12, 2008 Board meeting that the PRguy would provide services related to legislative matters as well as issues surrounding the School's president.</p>	Unsubstantiated
The Board authorized \$10,000 in spending for the public relations firm to assist with upcoming charter legislation; however, the funds were not used for this purpose.	AOA completed a series of inquiries with various Board members to determine the Board's understanding of the approval of contract with the PRguy. Based on inquiries, the Board was aware that the contract with the PRguy was for both charter legislation and personnel issues. Although Board minutes only referred to charter legislation, Board members were aware of the intended use of the funds.	Unsubstantiated

FINDINGS AND RECOMMENDATIONS

Finding #1 – Contract Amendment

Criteria

The signed contract between the PRguy and the School states, "No change, amendment, termination or attempted waiver of any of the provisions hereof shall be binding upon any party unless set forth in a writing signed by the parties to be bound."

Condition

The School approved an increase in the contract amount on July 22, 2008; however, the amendment was not set forth in writing.

Cause

The School did not consider the increase in dollar amount to be a change requiring an amendment in writing.

Effect

Lack of written amendments could potentially lead to discrepancies in interpretation of contract terms.

Recommendation

The School should adhere to contract stipulations for all future contracts.

Auditee Response

The Board noted that the approval of the amendment to the Agreement was set forth in the minutes of the Board's meeting and was in writing. However, the Board agrees that in the future such minutes shall be transformed into a formal contract amendment to be executed by the Board and the contracting party.

Finding #2 – Policies and Procedures

Criteria

The Charter School of Wilmington Employee Handbook, Personnel Policies, and Procedures regarding purchases states, "Purchases of \$5,000 or more require at least 3 written quotes."

Condition

The School obtained one written quote for a contract valued at an amount not to exceed \$10,000.

FINDINGS AND RECOMMENDATIONS

Cause

The handbook applies to employees of the School. No policy existed that strictly applied to the Board.

Effect

The lack of a purchasing policy for the Board could have resulted in the School entering into contract with a vendor that was not the most economical or effective.

Recommendation

The Board develop a policy and procedure applicable to Board purchasing.

Auditee Response

The Board agrees to develop a policy and procedure applicable to Board purchasing.

Finding #3 – the PRguy Contract

Criteria

General accounting practices require that contracts be dated as per the date the contract is signed.

Condition

The contract with the PRguy was dated three weeks prior to the contract being approved by the Board. Per interviews with Board members and the PRguy, the contract was not signed by the Board until after approval by the Board at the Board meeting.

Cause

The contract was developed by the PRguy. The PRguy typed in the date and signed the contract prior to providing to the Board.

Effect

Although the contract was not actually signed on the date noted on the contract, the date on the contract could potentially lead to litigation if either party argued the contract.

Recommendation

The School should ensure that contracts are signed and dated using the actual date of signature and that signatures not be applied until after Board approval (as applicable).

FINDINGS AND RECOMMENDATIONS

Auditee Response

The Board agrees that future contracts will be dated as signed and any retroactivity will be noted specifically within the contract.

DISTRIBUTION OF REPORT

Copies of this report have been distributed to the following public officials:

Executive

The Honorable Jack A. Markell, Governor, State of Delaware

Legislative

The Honorable Russell T. Larson, Controller General, Office of the Controller General

Other Elective Offices

The Honorable Joseph R. Biden III, Attorney General, Office of the Attorney General

Other

The Honorable Lillian Lowery, Secretary, Department of Education

Board Members, Charter School of Wilmington